



JUL 26 2005

The Honorable Rick Perry
Governor of Texas
Post Office Box 12428
Austin, Texas 78711

Dear Governor Perry:

It is with pleasure that I respond to the State of Texas' request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA). This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and Sections 8-10 of the Wagner-Peyser Act. In the Strategic State Plan for Title I of the Workforce Investment Act and the Wagner-Peyser Act for the two-year period, July 1, 2005, through June 30, 2007, the state submitted eight waiver requests. The following is the disposition of the state's waiver submission (copy enclosed).

Requested Waiver 1: Extension of the waiver of the required 50 percent employer match for customized training.

The state indicates that an extension will allow the state to continue to improve services to customers seeking training and will improve the capacity of local boards to market demand-driven services and build beneficial relations with the private sector. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the state is granted an extension of the waiver as requested.

Requested Waiver 2: Extension of the waiver to continue to extend the time period of initial eligibility for training providers at 20 CFR 663.530.

The state indicates that an extension of this waiver is needed to address the continuing difficulties in the collection of "all student" information from training providers. Without an extension, the state indicates that many training providers are likely to opt out of the Eligible Training Provider system, thus limiting customer choice. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the State of Texas is granted an extension of the waiver, through June 30, 2007.

Requested Waiver 3: Extension of the waiver of the 20 percent funds transfer limitation at WIA Section 133(b)(4).

This request for funds transferability is consistent with one of the improvements that the Administration is seeking in the reauthorization of the Workforce Investment Act — the consolidation of the WIA Adult, WIA Dislocated Worker and Wagner-Peyser Act (Employment Service) funding streams. The request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the state is granted an extension of the waiver of the funds transfer limitation at WIA Section 133(b)(4), through June 30, 2007. The waiver allows the state to approve local area requests to transfer up to 100 percent of local area allocations between the WIA Adult and Dislocated Worker programs.

Requested Waiver 4: Extension of the waiver to use Individual Training Accounts (ITAs) for youth participants.

The state indicates that an extension will offer continued flexibility in using youth funds to provide training services to youth while retaining limited adult funds to be used on adult training services. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the state is granted an extension of the waiver of the prohibition on the use of ITAs for older and out-of-school youth at 20 CFR 664.510, through June 30, 2007. The state should ensure that funds used for ITAs are tracked and reflected in the individual service strategies for these youth.

Requested Waiver 5: Waiver to permit local areas to request the use of up to 50 percent of local area formula allocation funds for adults, dislocated workers and youth, to provide statewide activities at WIA Sections 129(b) and 134.

The State of Texas was granted a waiver, on August 19, 2003, which permitted local workforce boards to request the use of up to 10 percent of formula allocated funds to conduct statewide activities. The state is now seeking additional flexibility in the use of these funds. On June 27, 2005, the state submitted additional information that allowed us to complete our review of this request. The state indicates that, under the current waiver, local boards are designing customized solutions to meet the skill needs of the employers in their local areas. However, these needs are frequently difficult to address with WIA formula funds because of the categorical nature of these funding streams.

This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, we are granting a waiver of the language that limits the authority to provide the activities identified in WIA Sections 134(a)(1)(B) and 129(b) to the state. This waiver permits local areas to request the use of up to 25 percent of local area

formula allocation funds for adults, dislocated workers and youth to conduct the statewide activities at WIA Sections 129(b) and 134, through June 30, 2007. We are pleased to be able to offer additional flexibility to support your efforts to develop a demand-driven workforce system. Although we are not granting the full increase requested by the state, we believe the additional flexibility in the use of funds at the level approved will allow the state to meet its goals, as described in the waiver request. We look forward to hearing about how local areas utilize this flexibility and any performance improvements that result.

Waiver Request 6: Waiver to permit alternative methods for submission of the Work Opportunity Tax Credit (WOTC) and the Welfare-to-Work Tax Credit (WtWTC) applications, including faxed transmissions and e-mailed transmissions of portable document format (pdf) files.

We cannot address the requirements for submission of Internal Revenue Service (IRS) Form 8850 for the Work Opportunity and Welfare-to-Work Tax Credits through the WIA waiver authority. We have confirmed with the IRS that faxed transmissions of this form are not permitted. The requirements for electronic submission can be found in Internal Revenue Bulletin No. 2002-17, dated April 29, 2002.

Waiver Request 7: Waiver to eliminate the requirement for a second review of the certifications and denials issued under the Work Opportunity Tax Credit (WOTC) and the Welfare-to-Work Tax Credit (WtWTC) programs.

This review requirement responds to the mandate and the requirement in the Omnibus Budget Reconciliation Act of 1990 (P. L. 101-508), Section 11405(c), which extended indefinitely the set-aside for testing whether individuals certified as members of targeted groups are eligible for certification. This requirement falls outside the WIA waiver authority and cannot be waived.

Requested Waiver 8: Waiver to allow the Governor to increase the amount of WIA Dislocated Worker funds that may be reserved as statewide activity funds.

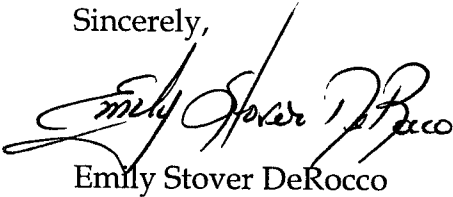
The state is seeking this waiver to meet the increasing need for incumbent worker training. This request, like the funds transfer and use of local funds waiver requests addressed above, is consistent with one of the improvements that the Administration is seeking in the reauthorization of the Workforce Investment Act—the consolidation of the WIA Adult, WIA Dislocated Worker and Wagner-Peyser Act (Employment Service) funding streams. The request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e).

While we cannot approve a transfer of funds as requested, we are granting a waiver of the language limiting the authority to provide the activities at WIA Section 134(a)(1)(B) to statewide reserve funds. This waiver permits the use of up to 25 percent of the funds reserved for rapid response activities at WIA Section 133(a)(2), to provide the allowable statewide employment and training activities authorized at WIA Section 134(a)(3)(A), with the exception of administration, at WIA Section 134(a)(3)(A)(i), through June 30, 2007. We believe this flexibility in the use of funds will assist the state in meeting the demand for incumbent worker training.

As provided for under paragraph 3 of the executed Agreement, the approved waivers are incorporated by reference into the state's WIA Grant Agreement. A copy of this letter should be filed with the state's WIA Grant Agreement and the state's Strategic Plan, as appropriate.

We look forward to continuing our partnership with you and achieving better workforce investment outcomes. We are prepared to entertain other state and local level waiver requests that you may wish to submit, consistent with the provisions of the WIA statute and regulations.

Sincerely,



Emily Stover DeRocco

Enclosure